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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,648	03/23/2004	Andreas G. Kunschke	043336-9026-00	2575

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EXAMINER
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LIANG, LEONARD S

ART UNIT	PAPER NUMBER
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2853

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/23/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/806,648

Applicant(s)

KUNSCHKE, ANDREAS G.

Examiner

Leonard S. Liang

Art Unit

2853

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 11 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/23/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12-14, 16-22, and 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoffman (US Pat 1889246).

Hoffman discloses:

- {claim 1} A coder assembly for printing on containers or on labels that can be applied to containers (figure 3-6); a base (figure 4, reference 22); a support member movably coupled to the base (figures 3 and 5-6, reference 24); a coder supported by the support member and movable with the support member relative to the base (figures 3 and 5-6, reference 27-28; column 1, lines 1-10, 29-33)
- {claims 2 and 26} further comprising an adjustment mechanism coupled between the coder and the support member and configured to adjust the position of the coder with respect to the base (figures 3 and 5-6, reference 26)
- {claims 3 and 27} wherein the adjustment mechanism is operable to move the coder along a substantially horizontal axis and along a substantially vertical axis without using tools (figures 3 and 5-6, reference 26 (see arrow in figures 5-6 for horizontal movement and notches 25 for vertical movement))

- {claims 4 and 28} wherein the adjustment mechanism is operable to permit rotation of the coder about a substantially vertical axis (figures 5-6, references 26-28; see arrows)
- {claims 5 and 19} wherein the support member is pivotally coupled to the base (figures 3-6, reference 24)
- {claim 6} wherein the coder assembly is adapted to be used with a bottling machine, the bottling machine defining a machine surface, and wherein the base is supported on the machine surface (figure 3, reference 10, 16)
- {claim 7} wherein the support member is cantilevered from the base and spaced from the machine surface such that no portion of the support member or the coder is in contact with the machine surface (figure 3; references 24 and 27-28 are not in contact with machine surface 16)
- {claims 8 and 20} further comprising a latch mechanism selectively locking the support member to the base so that the support member is substantially immovable with respect to the base (figure 3, reference 36)
- {claims 9 and 21} wherein the latch mechanism is operable to selectively lock and unlock the support member without using tools (figure 3, reference 36; screws can be set by hand)
- {claims 10 and 22} further comprising a plurality of abutment members between the support member and the base, wherein the abutment members are configured to limit the spacing between the support member and the base (figure 4; see abutment members between refs 22 and 24)

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- {claim 17} A coder assembly for printing on containers or on labels that can be applied to containers (figure 3-6); a base having a bottom surface supported by a machine surface (figure 4, reference 22 serves as base, 16 serves as machine surface); a coder (figure 3, references 27-28); a support member configured to support the coder, the support member cantilevered from the base and spaced from the machine surface such that no portion of the support member or the coder is in contact with the machine surface (figures 3 and 5-6, reference 24)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (US Pat 1889246) in view of Ryan (US Pat 6469729).

Hoffman discloses, with respect to claims 15 and 29-30, a coder assembly (as applied to claims 1 and 17 above).

Hoffman further discloses, with respect to claim 29, wherein the coder is supported by the support member in a substantially upright orientation (figure 3, reference 24).

Hoffman differs from the claimed invention in that it does not disclose that the coder is a laser coder.

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Ryan discloses, with respect to claims 15 and 29-30, a laser coder (column 1, lines 11-35).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the cutter coder of Hoffman with the laser coder of Ryan. The motivation for the skilled artisan in doing so is to gain the benefit of facilitating the marking of arcuate surfaces to permit a manufacturer to track products.

#### *Allowable Subject Matter*

Claims 11 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11 and 23 disclose, "wherein the plurality of abutment members are carried on a turret, and wherein the turret is adjustable to selectively position any one of the plurality of abutment members between the support member and the base," which was not found, taught, or disclosed in the prior arts.

#### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Johnson (US Pat 4098183) discloses an in-line printing device.

Holm (US Pat 2242974) discloses a labeling machine.

Shurley et al (US Pat 2150522) discloses registration of articles for multicolor printing.

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Ahlgren et al (US Pat 3960072) discloses an automatic label-printing apparatus.

Creamer (US Pat 2199255) discloses a printing attachment for bottle labeling machines.

Lucas (US Pat 2724329) discloses bottle-labelling machines.

Carter (US Pat 2731913) discloses a label dating mechanism for labeling machines.

Davies (US Pat 3519835) discloses a radiation sensitive apparatus for verifying label position.

Davies (US Pat 3891324) discloses a method and apparatus for inspecting position of labels on product surfaces.

Jennel (US Pat 6135654) discloses a method and apparatus for printing digital images on plastic bottles.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard S. Liang whose telephone number is (571) 272-2148. The examiner can normally be reached on 8:30-5 Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on (571) 272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

02/17/07  
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**STEPHEN MEIER**  
**SUPERVISORY PATENT EXAMINER**